



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/154576

PRELIMINARY RECITALS

Pursuant to a petition filed January 02, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on February 04, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly determined Petitioner's FoodShare allotment effective January 1, 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Yia Xiong, Income Maintenance Specialist II
Milwaukee Enrollment Services
1220 W. Vliet St., Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On December 13, 2013, Petitioner's husband applied for FoodShare benefits. (Exhibit 3, pg. 7)

3. On December 16, 2013, the agency sent the Petitioner a notice indicating that her FoodShare benefits would be reduced from \$189.00 per month to \$15.00 per month, effective January 1, 2014. (Exhibit 3, pg. 26-33)
4. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on January 2, 2014. (Exhibit 1)
5. Petitioner's assistance group size is 2 and includes the Petitioner and her husband. (Exhibit 3, pgs. 5 and 7)
6. The Petitioner receives Social Security Income, in the amount of \$838.00 per month. (Exhibit 3, pgs. 1, 10 and 30)
7. The Petitioner's husband has earned income from [REDACTED] Security Service in the amount of \$705 every other week or \$1515.75 per month (\$705 x 2.15 average bi-weekly pay periods per month). (Exhibit 3, pgs. 1, 10 and 30)
8. Petitioner's total monthly income is $\$838.00 + \$1515.75 = \$2353.75$.
9. Petitioner paid rent in the amount of \$1025 per month and was responsible for paying utilities.
10. In January 2014, both Petitioner and her husband were considered elderly (over age 60) for FoodShare purposes. (Exhibit 3, pg. 5)

DISCUSSION

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has a member over age 60. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4*. The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FoodShare Wisconsin Handbook (FSH), § 4.3.1*. The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1*.

Once a household passes the gross income test the following deductions are applied in determining the FoodShare allotment. (*FSH, at § 4.6*):

- (1) a standard deduction –

This is \$152 per month for a household of 1-3 people. *7 CFR § 273.9(d)(1)*:

- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and
- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. *7 CFR § 273.9(d)(5)*.

During part of the time in question the heating standard utility allowance (HSUA) was \$450 per month.

During part of the time in question there was a cap of \$478.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

FSH, §§ 4.6.7.1 and 8.1.3.

The term 'disabled' is a term with a definition as to the FoodShare program:

3.8.1.1 EBD Introduction

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).
FSH, §3.8.1.1.

Petitioner filed an appeal, asserting that the agency's allotment determination for January 2014 onward did not take into account outstanding medical expenses. The Petitioner submitted four bills.

A medical expense can be used as a deduction when:

1. The expense was incurred either before or during the current certification period,
2. The individual is still obligated to pay the expense, AND
3. The expense was not previously allowed as a deduction for a prior certification period.

FSH 4.6.4.1 Allowable Medical Expenses

The first bill was an Aurora Health Care bill dated April 3, 2013. However, it appears that there are handwritten notes on the bill indicating a payment was made on the bill. Medical expenses paid prior to the certification period are not allowable. *FSH §4.6.4.1* As such, the Petitioner will need to provide verification of the current balance on the bill to the agency, before it can be counted as medical expense.

The second bill was dated January 14, 2014 and was from Progressive Community Health Center, for dental services rendered in April 2013. The outstanding balance is \$44.80. Because the expense was incurred before the certification period, because Petitioner's husband is still obligated to pay the expense and because there have been no prior certification periods, this bill would be an allowable expense for the current certification period.

The third bill is dated January 8, 2014 and was from Aurora Health Care for services rendered on August 14, 2013. The outstanding balance was \$17.31. Because the expense was incurred before the certification period, because Petitioner is still obligated to pay the expense and because there have been no prior certification periods, this bill would be an allowable expense for the current certification period.

The fourth bill is from a collections agency, Harris and Harris of Illinois for ambulance services rendered by the City of Milwaukee Fire Department. However, there is no date on this bill, nor any date of service on the bill. As such, it cannot be used as a medical expense at this time.

Averaging out the two bills that can be used as a deduction we have:

$$\$44.80 + \$17.31 = \$62.11$$

$$\$62.11 - \$35.00 = \$27.11 \text{ in medical expenses exceeding } \$35.00$$

$$\$27.11 \div 12 \text{ months} = \$2.26 \text{ per month. (Certification Periods are generally 12 months long. } FSH \text{ §2.2.1)}$$

Thus, Petitioner's FoodShare allotment works out as follows:

| | | | |
|-----------------------------------|------------|------------------------|-----------|
| Gross Income | \$2353.75 | Rent | \$1025.00 |
| Earned Income Deduction | -\$303.15 | HSU | \$450.00 |
| Standard Deduction | -\$152.00 | 50% Net income | -\$948.17 |
| Medical Expenses exceeding \$35 | -\$2.26 | | |
| No Dependent Care Expenses | | Excess Shelter Expense | \$ 526.83 |
| <hr/> | | | |
| Net Income before shelter expense | \$1896.34 | | |
| Excess Shelter Expense | - \$526.83 | | |
| <hr/> | | | |
| Net Income | \$1369.51 | | |

Effective November 1, 2013, individuals, in a household of 2, with a net income of \$1369.51 qualify for a FoodShare allotment of \$15.00 per month. *FSH* §8.1.2.

CONCLUSIONS OF LAW

The agency correctly determined Petitioner's FoodShare allotment effective January 1, 2014.

THEREFORE, it is **ORDERED**

That the petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

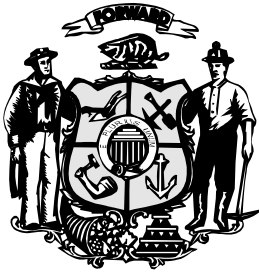
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 24th day of February, 2014.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on February 24, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability